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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,239	03/26/2004	Lorraine E. Reeve	PMX-003.02	9010
25181	7590	10/03/2006	EXAMINER	
FOLEY HOAG, LLP PATENT GROUP, WORLD TRADE CENTER WEST 155 SEAPORT BLVD BOSTON, MA 02110			THERKORN, ERNEST G	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/811,239

Applicant(s)

REEVE ET AL.

Examiner

Ernest G. Therkorn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-14 are rejected under 35 U.S.C. 102(B) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over each of Reeve (U.S. Patent No. 5,800,711) and Reeve (U.S. Patent Publication No. 2002/0137973). The claims are considered to read on each of Reeve (U.S. Patent No. 5,800,711) and Reeve (U.S. Patent Publication No. 2002/0137973). However, if a difference exists between the claims and each of Reeve (U.S. Patent No. 5,800,711) and Reeve (U.S. Patent Publication No. 2002/0137973), it would reside in optimizing the elements of each of Reeve (U.S. Patent No. 5,800,711) and Reeve (U.S. Patent Publication No. 2002/0137973). It would have been obvious to optimize the elements of each of Reeve (U.S. Patent No. 5,800,711) and Reeve (U.S. Patent Publication No. 2002/0137973) to enhance separation.

Claims 12-14 are rejected under 35 U.S.C. 102(B) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over each of Berg (U.S. Patent No. 6,448,371), Landh (U.S. Patent No. 5,531,925), and Schwarz (U.S. Patent No.

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2005/0008610). The claims are considered to read on each of Berg (U.S. Patent No. 6,448,371)'s column 1, lines 14-17 purified poloxamer 407, Landh (U.S. Patent No. 5,531,925)'s column 11, lines 42-43 purified poloxamer 407, and Schwarz (U.S. Patent No. 2005/0008610)'s paragraph 176 purified poloxamer 407. However, if a difference exists between the claims and each of Berg (U.S. Patent No. 6,448,371), Landh (U.S. Patent No. 5,531,925), and Schwarz (U.S. Patent No. 2005/0008610), it would reside in optimizing the elements of each of Berg (U.S. Patent No. 6,448,371), Landh (U.S. Patent No. 5,531,925), and Schwarz (U.S. Patent No. 2005/0008610). It would have been obvious to optimize the elements of each of Berg (U.S. Patent No. 6,448,371), Landh (U.S. Patent No. 5,531,925), and Schwarz (U.S. Patent No. 2005/0008610) to enhance separation.

The remarks urge each of the limitations of the claims is not shown. However, the viscosity of the copolymers would appear to be achieved by purifying the copolymers. Inasmuch as each of each of Reeve (U.S. Patent No. 5,800,711), Reeve (U.S. Patent Publication No. 2002/0137973), Berg (U.S. Patent No. 6,448,371), Landh (U.S. Patent No. 5,531,925), and Schwarz (U.S. Patent No. 2005/0008610) purify the recited copolymers, they would all appear to have the recited viscosity.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

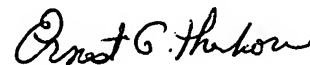
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (571) 272-1149. The official fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Ernest G. Therkorn**  
**Primary Examiner**  
**Art Unit 1723**

EGT  
September 28, 2006